



*VIA E-MAIL*

September 23, 2011

Clerk of the Board  
California Air Resources Board  
1001 I Street, Sacramento  
California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php>

**Re: Comments, Proposed Changes to the Greenhouse Gas Cap-and-Trade Regulations,  
Second 15-Day Rulemaking Package**

Dear Sir/Madam:

Valero Refining Company – California and Ultramar Inc (collectively “Valero”) appreciate this opportunity to provide comments regarding the California Air Resources Board (“ARB”) Proposed Changes to the Greenhouse Gas Cap-and-Trade Regulations, as posted for public comment on September 12, 2011. Valero owns and operates two refineries in the state of California, with a combined throughput capacity of over 305,000 barrels per day. Valero refines and markets products on a retail and wholesale basis through an extensive bulk storage and pipeline distribution system. Additionally, Valero’s affiliates own and operate one of the nation’s largest retail operations, which have a significant presence in California, as well as 37 other states. Valero, on behalf of itself and its affiliates, is providing the following comments and concerns regarding the above referenced revisions. Additionally, to the extent that CARB pursues a Cap-and-Trade program under AB32, Valero herein adopts by reference the comments on the Cap-and-Trade regulation previously submitted by Valero during the first public comment period on August 11, 2011.

Valero is concerned that ARB has not addressed all stakeholder comments submitted during the previous comment period. In addition, we believe that the proposed regulation, as written, provides an incomplete rulemaking package. Valero continues to urge ARB to complete a thorough regulatory development process prior to adoption, including full consideration of comments and alternatives presented during both public comment periods.

We have listed below issues and concerns that we wish to expand upon further to lessen the impact and improve upon your efforts.

**1. Language in Section 95856 regarding timely surrender of compliance instruments by a covered entity is unclear.**

Section 95853 states that a covered entity that initially exceeds the threshold in Section 95812 in the first year of a compliance period is a covered entity for the entire period. ARB should allow compliance instruments issued from an allowance budget throughout a triennial

compliance period be available for use to meet a triennial compliance obligation, not just the last year of a compliance period for which a triennial compliance obligation is calculated as stated in Section 95856(b)(2). Valero does not believe that ARB's intent was to limit the use of compliance instruments for a triennial compliance period to those compliance instruments issued during the last year of the triennial period. The language in Section 95856(b)(2) is confusing and Valero recommends that the language be changed to match the language below that is used in the Summary of Proposed Modifications:

*"A compliance instrument issued for the last year of a compliance period, or from a previous vintage, may be used for a triennial obligation for that compliance period".*

2. **The methodology used for calculating the first compliance period refining sector allocation should match the methodology used for calculating individual petroleum refinery first compliance period allocations.**

Section 95870(d)(2)(A) addresses the first compliance period sector allocation using a "simple barrel" approach, but the individual petroleum refinery first compliance period allocations for facilities with a Solomon Energy Intensity Index (EII) covered in Section 95891(d)(2) utilizes an EII weighting. In order to ensure consistency between the sector allocation and individual refinery allocations, Valero suggest that ARB apply the EII weighting approach for facilities with an EII in establishing that portion of the refining sector allocation. As stated by ARB in the Summary of Proposed Modifications, the EII is the most appropriate performance metric for complex facilities in the first compliance period.

Valero strongly urges ARB to fully evaluate the merits of comments submitted in both the first and second public comment periods to ensure a thorough regulatory development process prior to adoption of any cap-and-trade regulation. Valero believes that if ARB thoughtfully considers all comments that the final regulation would minimize the impact to the economy, industry and consumers. We also urge ARB to ensure that the infrastructure and programs necessary to support the objectives and requirements of a cap-and-trade program are fully developed before adopting a final rule. On behalf of Valero and its affiliates, please contact me at (210) 345-2120 should you have any questions or need clarifications concerning our comments.

Sincerely,



Patrick Covert  
Executive Director, Regional Environmental and Regulatory Affairs  
Corporate Environmental  
Valero Companies